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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,265	07/30/2001	Takashi Hanamoto	862.C2318	8676
5514	7590	05/09/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			CHANG, JON CARLTON	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,265

Applicant(s)

HANAMOTO, TAKASHI

Examiner

Jon Chang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-33 and 35-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-33 and 35-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)

Response to Applicant's Amendment and Arguments

1. The amendment filed January 3, 2005, has been entered and made of record. Claims 7 and 34 have been cancelled. Claims 1, 8, 9, 22, 24, 25, 27, 28, 35, 36, 49, 51, 52, 54 and 55 have been amended. Claims 56-58 have been added. Claims 1-6, 8-33 and 35-58 are pending.

In response to the amendment, the objection to the claims due to informalities, the objection to the disclosure due to an informality, and the rejections under 35 U.S.C. §§ 101 and 112, second paragraph, are withdrawn.

Applicant's arguments, see pages 20-22, filed January 3, 2005, with respect to the rejection(s) of claim(s) 1-7, 11-12, 15, 17, 23, 28-34, 38-39, 42, 44, 50 and 55 under 35 U.S.C. § 102(e) have been fully considered in view of the amendment to the claims, and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made under 35 U.S.C. § 112, first paragraph.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-6, 8-33 and 35-58 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 28, and 55 recite, "if binary data more than the limitation number of one template are assigned to said template, remaining binary data are assigned to a predetermined template dedicated for surplus images." Claims 56-58 each have a similar recitation. This limitation is not supported by the original disclosure. The newly added language appears to relate page 20, lines 7-16 of the specification. This portion of the specification states, that "if the number of image data to be pasted is greater than the upper limit value of the number of the image data frames, the process proceeds to step S607a..." This corresponds to the claim language, "if binary data more than the limitation number of one template are assigned to said template." The specification continues, "the process proceeds to step S607a, at which the image data are pasted, sequentially from image data having the highest priority keyword, on the image data frames." Next, the specification states, "At step S607b, the remaining image data, which have not been pasted at step S607a, are pasted on the image data frame of the "other activities" template 203." This last quoted portion of the specification corresponds to the claim language, "remaining binary data are assigned to a predetermined template **dedicated** for **surplus images**." (emphasis added). However, there is doubt as to whether the original disclosure describes the template 203 as being dedicated for surplus images. Page 12, lines 19-23 of the specification state that the template 203 "is a template provided for storing image data which does not match any of the keywords, 'opening ceremony', 'bread eating race' and 'closing ceremony'..."

Since the specification does not provide a definition for the word, "surplus" (it does not even contain the word), it is assumed that the standard definition of the word, "surplus" is applicable. Generally, "surplus" is defined as "the amount that remains when use or need is satisfied". Clearly, the template 203 is used to store surplus image data, as is evident from page 20, lines 7-16. However, page 12, lines 19-23 makes it clear that the template is not dedicated for surplus images, since other images are also stored in it. In the Examiner's view, removing the word dedicated would **not** solve the problem, as Shaffer may then be applicable to the claims. To avoid this rejection, perhaps a term or terms other than "surplus" could be used to describe the dedicated template.

Reference Cited

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Webster's Ninth New Collegiate Dictionary is cited for its definition of the word, "surplus.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon Chang whose telephone number is (571) 272-7417. The examiner can normally be reached on M-F 8:00 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (571)272-7414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jon Chang
Primary Examiner
Art Unit 2623

Jon Chang
May 3, 2005